

### **REMARKS**

Claims 11-21 have been examined and have been rejected under the doctrine of obviousness-type double patenting. Also, claims 11, 12, 14-19 and 21 have been rejected under 35 U.S.C. § 102(b), and claims 13 and 20 have been rejected under 35 U.S.C. § 103(a).

#### **I. Preliminary Matters**

The Examiner has objected to the specification as not providing proper antecedent basis for the features in claim 11, lines 8-9, claim 15, lines 8-9 and claim 19, lines 4-5. Accordingly, Applicant has amended the claims in a manner believed to overcome the objection. Applicant notes that the recitation of “upper surface” and “lower surface” has been removed from the claims. However, at least based on Figure 4, it is clear that the reference hole is provided in “a” surface of the cartridge, and such surface is not a *side* surface of the cartridge (i.e., by virtue of the type of view of Figure 4 compared with at least Figure 1, the surface shown has to be one of either the upper or lower surfaces). Thus, the current recitations are believed to be fully supported.

#### **II. Rejections under the Doctrine of Obviousness-type Double Patenting**

The Examiner has rejected claims 11-21 under the Doctrine of Obviousness-type Double Patenting as allegedly being unpatentable over U.S. Patent No. 6,764,038 to Morita et al. (“Morita”) (the parent Application to the present Application) in view of Kaneda. Without

conceding to the Examiner's statements regarding Morita and Kaneda, Applicant submits herewith a terminal disclaimer, thereby overcoming the rejection.

**III. Rejections under 35 U.S.C. § 102(b) in view of U.S. Patent No. 3,655,145 to Olsen ("Olsen")**

The Examiner has rejected claims 11, 12, 14-19 and 21 under 35 U.S.C. § 102(b) as allegedly being anticipated by Olsen.

**A. Claim 11**

Applicant submits that claim 11 is patentable over the cited reference. For example, claim 11 recites that a magnetic tape drawing-out port is provided on a side surface, apart from a corner, and between a screw hole and a reference hole. The reference hole is provided in a surface of the cartridge case in the vicinity of a central portion of said cartridge case. Further, claim 11 recites that the surface of the cartridge case that is provided with the reference hole is not a side surface of the cartridge case.

The Examiner maintains that Olsen discloses the claimed features. In particular, the Examiner maintains that opening 56 discloses the claimed drawing-out port, threaded wells 32 disclose the claimed screw hole, and slot 88 discloses the claimed reference hole. However, as shown in Figs. 1 and 6 of Olsen, slot 88 is disposed in a side surface, i.e., forward wall 26, which is contrary to the recitations of claim 11 (Fig. 1; col. 2, lines 1-3; col. 3, lines 21-24).

Further, on page 7 of the Office Action, the Examiner maintains that wall 26 of Olsen has upper and lower side wall portions. However, in view of the recitations of claim 11, i.e., that the reference hole is not provided in a side surface, Applicant submits that claim 11 is patentable over the cited reference.

In view of the above, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claim 11.

**B. Claims 12 and 14**

Since claims 12 and 14 are dependent upon claim 11, Applicant submits that such claims are patentable at least by virtue of their dependency.

In further regard to claim 14, the claimed drawing-out member is a leader block which fits in the magnetic tape drawing-out port and forms a part of the side wall when the leader block is in a state of disuse. Applicant submits that the leader 74 of Olsen does not form a side wall when merely located in the opening 56. Rather, the end portion of the leader 74 must be tucked into the slot 88, to form a part of the side wall.

**C. Claim 15**

Since claim 15 contains features that are analogous to the features discussed above for claim 11, Applicant submits that claim 15 is patentable for at least analogous reasons as claim 11.

**D. Claim 16**

Applicant submits that claim 16 is patentable over the cited reference. For example, claim 16 recites a drawing-out member that is fitted in a magnetic tape drawing-out port to be fixed when the magnetic tape cartridge is in a state of disuse.

The Examiner maintains that the leader 74 and the opening 56 of Olsen disclose the claimed drawing-out member and drawing-out port. However, the leader 74 of Olsen is provided at an end of a magnetic tape and is merely drawn out of the case 12 from the opening 56. The leader 74 is not fitted in the opening 56 to be fixed. Moreover, the leader 74 is not fitted in the opening 56 to form the forward wall 26 for closing the opening 56.

In regard to claim 14, the Examiner alleges that in Figures 1 and 2 of Olsen, the leader 74 is stored such that it covers the opening 56 and forms a wall over the port. Since the Examiner has not provided any substantive comments for claim 16, the Examiner apparently maintains that such understanding of Olsen can also apply to claim 16. However, when concerning damage to the magnetic tape drawing-out port, Applicant submits that it is improper to ignore the differences between Olsen's leader 74 being merely located, but not fitted in the opening 56 to be fixed and to close the opening. For example, the end portion 87 of the leader 74 is merely tucked into a slot (Fig. 1), the leader 74 is not "fixed" in the opening.

Further, as shown in Figure 2 of Olsen, the leader 74 is larger than the opening width of the opening 56 or the slot 88, and must be tucked into the slot 88, such that the leader 74 is

movable in the opening width direction. Thus, the leader 74 is not “fixed,” as recited in claim 16.

Based on the foregoing, Applicant submits that claim 16 is patentable over the cited reference, and respectfully requests the Examiner to withdraw the rejection.

**E. Claims 17, 18, 19 and 21**

Applicant submits that claims 17, 18, 19 and 21 are patentable at least by virtue of their dependency upon claim 16.

**IV. Rejections under 35 U.S.C. § 103(a) in view of Olsen**

The Examiner has rejected claims 13 and 20 under 35 U.S.C. § 103(a) as allegedly being unpatentable in view of Olsen. However, since claims 13 and 20 are dependent upon one of claims 11 and 16, Applicant submits that such claims are patentable at least by virtue of their dependency.

**V. Newly Added Claims**

Applicant has added claims 22-26 to provide more varied protection of the present invention.

**VI. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

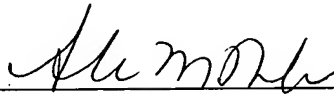
Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

  
Allison M. Tulino  
Registration No. 48,294

Date: February 7, 2006